

**Special Magistrate WaterWorks 2011 Hearing  
City Commission Meeting Room  
Floyd V. Hull, Jr., Presiding  
June 18, 2012  
10:00 A.M. – 10:44 A.M.**

**Staff Present**

Brian McKelligett, Clerk of Special Magistrate, Supervisor  
Erin Saey, Secretary / WW Special Magistrate  
Heather Steyn, WaterWorks 2011 Public Involvement Coordinator  
Mario Sotolongo, Code Enforcement Officer

**Respondents and Witnesses:**

CE11071082: Jacinda Harris, owner  
CE11061511: Vainqueur Alexis, owner  
CE11061512: Veronel Pierre, owner's brother  
CE11061007: Christopher B. Taylor, owner; Shaun Edward Lee, owner's representative  
CE10062715: Stamee L. Onishea, owner  
CE10062697: David H. Guirguis, owner  
CE11030113: Viconte Lewis, co-owner  
CE06092002: Susan Pedersen, owner; Gerard J. Cataldo, engineer; Gerald J. Solenski, Jr., contractor  
CE11041630: Daniel Stull, owner's brother

NOTE: all individuals who presented information to the Special Magistrate during these proceedings affirmed they would speak only the truth.

The meeting was called to order at 10:00 a.m.

**Case: CE06092002**

2001 SE 25 Avenue  
Susan I. Pedersen

This case was first heard on 10/4/07 to comply by 1/17/08. Violations and extensions are as noted on the agenda. The Code Enforcement Inspector has complied the case as of 6/15/12, although the violation still exists. The case has been brought before the Judge because the other two Magistrates have a conflict of interest. The property was out of compliance for 694 days and potential fines have accrued to \$229,750. The City requested that a fine of \$4800 be imposed in order to recover costs.

Mario Sotolongo, Code Enforcement Inspector, stated that the property has complied. The \$4800 fine is based on the cost of 14 hearings and 25 inspections involving the property.

Susan Pedersen, owner, explained that the house was destroyed by a tornado generated by Hurricane Wilma. In 2009, she had an architect draw up plans for a new house. The City has been provided with copies of these plans. She noted that the architect made several mistakes in the plans, which delayed construction of the new house. Ms. Pedersen eventually began working with a different contractor, who submitted the proper plans.

Gerry Cataldo of 21<sup>st</sup> Century Engineering stated that he began working with Ms. Pedersen in December 2011 and received comments from the City on the plans in April 2012. All comments have been addressed since that time, and the Applicant hired a contractor who submitted the final plans to the City. A permit should be issued shortly to demolish the old house and construct a new one.

Judge Hull advised that the City was seeking \$4800 in restitution for their expenses. Ms. Pedersen said the entire process has been very expensive. She added that she is paying the mortgage on the house, which is currently uninhabitable, and living elsewhere at this time.

Ginger Wald, Assistant City Attorney in charge of the case, noted that only the carport was cited in the case, and all that was required was a permit to demolish this structure. The City has drastically reduced its request for the imposition of fines due to the hardships faced by Ms. Pedersen in this case.

Mr. McKelligett said he had worked with Ms. Pedersen since December 2011 and was only now made aware that the case involved only the carport. He said this could have been taken care of months ago. He explained that the City was contacted by Ms. Pedersen's attorney in December 2011 after the previous architect could not submit proper plans.

Mr. McKelligett asked to know the results of Ms. Pedersen's case with Citizens Insurance. Ms. Pedersen said this case is still not entirely resolved. She added that in addition to the rear carport wall, which was removed, the City had asked her to remove the poured concrete structural wall that supported the former carport. This wall will provide support to the new structure that will be built.

Judge Hull imposed the \$4800 fine.

**Case: CE11041630**

4860 NW 9 Terrace

Marilyn M. Stull Est.

This case was first heard on 7/25/11 to comply by 10/23/11. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 56 days and potential fines have accrued to \$5600. The City requested that the fine be imposed and continue to accrue.

Daniel Stull, owner, stated he would like to enter a limited appearance without consenting to the jurisdiction of the Court. He said one issue with regard to the property is that its septic tanks have been taken in violation of the Fifth Amendment. He characterized this as "end-running eminent domain," which ordinarily requires a city to pay if they take property of value.

He added that his understanding, from prior extensions, was that no fines would be imposed in this case. Mr. Stull concluded that the house is "underwater" with respect to its worth, and the appearance of the case in public documents alerted the bank, which had been working with the owner to arrange a short sale. He requested that any prior orders by the City be dropped and that he be given a year to work through the issues related to the property. He felt this approach should be taken not only in his case but in similar cases throughout the City.

Judge Hull asked if Mr. Stull was questioning his jurisdiction in this case. Mr. Stull confirmed this. Judge Hull said any motion to this effect would be denied. Mr. Stull continued that he felt the annexation of his neighborhood by the City was illegal.

Judge Hull asked why the property has not complied. Mr. Stull cited financial hardship due to family illness and the foreclosure on the property, as well as a Supreme Court case that deemed legislatures could not expect "an absurd result," which he felt applied in his case.

Judge Hull imposed the \$5600 fine, which would continue to accrue until the property complied.

**Case: CE11010113**

1524 SW 5 Place

Madeleine Fortulus

This case was first heard on 3/28/11 to comply by 5/27/11. Violations and extensions are as noted in the Agenda. The property came into compliance on 5/10/12 after being out of compliance for 93 days. Potential fines have accrued to \$9300. The City requested that a fine of \$1200 be imposed.

Viconte Lewis, owner's husband, said he had experienced problems with the first contractor hired to complete the work, which delayed completion of the connection.

Judge Hull imposed the \$1200 fine.

**Case: CE11071082**

115 SW 30 Avenue

Jacinda Harris and Lorna B. White

This case was first heard on 10/24/11 to comply by 1/22/12. Violations and extensions are as noted on the Agenda. The property came into compliance on 5/17/12 after being out of compliance for 35 days. Potential fines have accrued to \$3500. The City requested that a fine of \$1120 be imposed.

Jacinda Harris, owner, said the work has been completed. She explained that she had experienced financial hardship which delayed the work, and stated that she was unable to pay the fine. She requested that the fee be waived.

Judge Hull imposed the \$1120 fine.

**Case: CE10062715**

1250 SW 29 Street

Stamee Fields

This case was first heard on 8/23/10 to comply by 11/21/10. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 210 days and potential fines have accrued to \$21,000. The City requested a 60-day extension.

Stamee Fields, owner, requested a 90-day extension.

Judge Hull granted the 90-day extension, during which time no fines would accrue.

**Case: CE11061007**

404 SE 30 Street

Taylor Investment Ventures LLC

This case was first heard on 8/22/11 to comply by 11/21/11. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 119 days and potential fines have accrued to \$11,900. The City requested that the original order of 4/23/12 be vacated.

Judge Hull vacated the order.

Mr. McKelligett explained that the case will now be re-heard and requested that no fines be imposed.

**Case: CE10062697**

1320 SW 26 Street

Saint Cyril Inc.

This case was first heard on 8/23/10 to comply by 11/21/10. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 181 days and potential fines have accrued to \$18,100. The City requested that the fine be imposed and continue to accrue.

David Guirguis, owner, stated he has paid the connection fee and has a contract for the work. He requested a 60-day extension.

Mr. McKelligett said there was no objection to a 70-day extension.

Judge Hull granted the 70-day extension, during which time no fine would accrue.

**Case: CE11061511**

202 SW 27 Terrace

Eliaimise Alexis

This case was first heard on 9/26/11 to comply by 1/24/12. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 54 days and potential fines have accrued to \$5400. The City requested a 70-day extension.

Vainqueur Alexis, owner's husband, said the work on the property is nearly complete. Mr. McKelligett advised that a final inspection will be necessary.

Judge Hull granted the 70-day extension, during which no fine would accrue.

**Case: CE11061512**

220 SW 27 Terrace

Emmanuel Pierre

This case was first heard on 2/27/12 to comply by 5/27/12. Violations are as note on the Agenda. The property has not been in compliance for 21 days and potential fines have accrued to \$2100.

Veronel Pierre, owner's brother, requested a 90-day extension.

Judge Hull granted the 98-day extension, during which time no fine would accrue.

**Case: CE10121934**

220 SW 22 Avenue

Sonja M. Backman

This case was first heard on 2/28/11 to comply by 5/29/11. Violations and extensions are as noted on the Agenda. The property came into compliance on 4/25/12 after being out of compliance for 56 days. Potential fines have accrued to \$5600. The City requested that a fine of \$1120 be imposed.

Judge Hull imposed the \$1120 fine.

**Case: CE11061905**

230 SW 29 Terrace

Deutsche Bank Natl. Tr. Co. Trustee

This case was first heard on 9/26/11 to comply by 1/24/12. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 54 days and potential fines have accrued to \$5400. The City requested that the fine be imposed and continue to accrue.

Judge Hull imposed the \$5400 fine, which would continue to accrue until the property complied.

**Case: CE11022366**

501 SW 15 Avenue

Lancet Loftus & Co % Randy Goodman

This case was first heard on 4/25/11 to comply by 10/22/11. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 58 days and potential fines have accrued to \$5800. The City requested a 180-day extension.

Judge Hull granted the 180-day extension, during which time no fine would accrue.

**Case: CE11010137**

531 SW 10 Avenue

Joaquin and Griselda Sosa

This case was first heard on 3/28/11 to comply by 6/26/11. Violations and extension are as noted on the Agenda. The property came into compliance on 5/25/12 after being out of compliance for 154 days. Potential fines have accrued to \$15,400. The City requested that the fine be imposed and continue to accrue.

Judge Hull imposed the \$15,400 fine, which would continue to accrue until the property complied.

Mr. McKelligett noted that the following case has already been heard but required a minor revision.

**Case: CE10062715**

1250 SW 29 Street

Stamee Fields

Mr. McKelligett noted that the 90-day extension previously granted by the Judge should be amended to 98 days.

Judge Hull granted the 98-day extension, during which time no fine would accrue.

**Case: CE11061184**

2809 SW 4 Court

Thelma, Velma L., and Tracy L. Folson

This case was first heard on 9/26/11 to comply by 10/26/11. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 56 days and potential fines have accrued to \$5600. The City requested that the fine be imposed and continue to accrue.

Judge Hull imposed the \$5600 fine, which would continue to accrue until the property complied.

**Case: CE10121930**

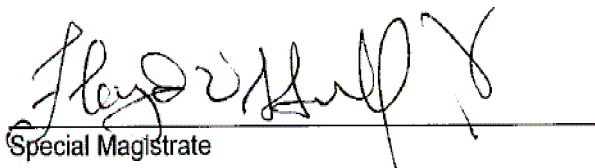
2824 SW 9 Street

Caroline Thompson Estate

This case was first heard on 3/28/11 to comply by 6/26/11. Violations and extensions are as noted on the Agenda. The property has not been in compliance for 54 days and potential fines have accrued to \$5400. The City requested a 70-day extension.

Judge Hull granted the 70-day extension, during which time no fine would accrue.

There being no further business, the hearing was adjourned at **10:44 a.m.**



Special Magistrate

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ATTEST:

  
Clerk, Special Magistrate

[Minutes prepared by K. McGuire, Prototype, Inc.]